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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,344	11/21/2003	William A. Taylor	3290-11	3317
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SUITE 530				
LAS VEGAS, NV 89128				
EXAMINER				
THOMAS, ERIC M				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
09/13/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/719,344

**Applicant(s)**

TAYLOR, WILLIAM A.

**Examiner**

Eric M. Thomas

**Art Unit**

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/24/10.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 33-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

This is in response to the amendments filed on 5/24/10; claims 1 – 32 have been cancelled and claims have been added. Claims 33 – 54 are pending in the current application.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claims 33, 34, and 36 - 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,012,983) in view of Yoseloff et al. (U.S. 2001/0048193).**

Regarding claims 33, 40, 44, and 51, Walker discloses a gaming device and method that is directed towards automated play of the gaming device, (col. 3, lines 27 – 30), wherein Walker discloses that the gaming device operates in a conventional manner, wherein the starts by inserting a coin, or electronic credit, and pressing the starting controller, (col. 4, lines 23 – 26), which is viewed by the Examiner as the gaming machine accepting a wager from a player. Walker further discloses that prior to initiating automated play, the player is required to enter player parameter selections via the display which includes a touch screen, (col. 5, lines 1 - 3), wherein Walker further discloses that the player parameter selections include both play options and limiting

criteria of play, wherein the play options include any information used to define automated play, such as bet per game, or handle pull and time between games or handle pulls, wherein the limiting criterion is any information that may define the beginning or end of an automated play session (col. 8, lines 15 - 24). The Examiner views the teaching the player selection the amount of handle pulls for automated play, as meeting the limitation of indicating a life count comprising a minimum of at least two life counts. Walker further discloses that a CPU of the gaming machine determines the outcome of the spinning of combination of symbols corresponding to a payout, wherein if the player wins, the gaming machine displays the credits in the display area (col. 4, lines 32 - 38). Walker further teaches that once automated has ended, the player may decide whether to resume automated play, wherein such play will continue until a limiting criterion occurs, or the player manually terminates play, (col. 12, lines 38 - 45), wherein the Examiner views play continuing until a limiting criterion occurs as the player being permitted to play multiple independent wagering games based upon a single wager wherein play is only terminated when the life count reaches zero, but Walker is silent on the issue determining any adjustment to the life count. In a related art, however, Yoseloff discloses a method of playing a wagering game, (abstract), wherein after a player provides an initial wager, the gaming determines an outcome, and if the player wins, awarding the player an award amount, or entry into a bonus event (par. 0013). Yoseloff further discloses a feature of the gaming machine wherein a player may receive a special symbol to serve as a special function, wherein one such symbol entitles the player to a free spin, wherein the player may receive another special

symbol, such as a "whammy", in which the player loses a spin or credits (par. 0050). The Examiner views this as meeting the limitation of adjusting a life count, wherein when combined with Walker, the free spin of Yoseloff with increase the life count, wherein the "whammy" will decrease the life count. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Yoseloff into the art disclosed by Walker in order to increase player excitement while playing the gaming machine.

Regarding claims 34 and 41, Walker discloses that the gaming device may determine the maximum number of handle pulls during automated play, (col. 6, lines 15 – 21), which is viewed by the Examiner as totaling the number of independent wagering games played by the player before the life count reaches zero.

Regarding claim 36, Walker discloses that a player may win a jackpot, (col. 6, lines 8 – 9), but is silent on the issue of the jackpot being a progressive jackpot. Yoseloff however, teaches that a player may be awarded an amount that may be a portion of a progressive jackpot (par. 0007). Therefore, one would be motivated to include a progressive jackpot into the art disclosed by Walker in order to increase player excitement while playing the gaming machine.

Regarding claim 37, as stated above, Walker discloses that once automated has ended, the player may decide whether to resume automated play, wherein such play will continue until a limiting criterion occurs, or the player manually terminates play, (col. 12, lines 38 – 45), wherein the Examiner views the event wherein the player deciding

whether to continue automated play after it has ended, as meeting the limitation of the life count cannot exceed a predetermined maximum count.

Regarding claims 38, 39, 42, 43, 47 – 49, and 54, as stated above, Walker is silent on the issue of adjusting the life count based on game extending and termination symbols, however, as cited above, this is overcome by the free spin and "whammy" symbols disclosed by the Yoseloff reference.

Regarding claims 45, 46, 50, 52, and 53, as stated above, Walker discloses a life indicator, but is silent on the issue of the indicator being a simulation of a sports event. However, this is viewed by the Examiner as being a particular theme of the gaming machine, thereby being an obvious matter of design choice, since it has not been disclosed that the indicator being a simulation of a sports event provides an advantage or solves a stated problem. Therefore, it would have been prima facie obvious to modify Walker to obtain the invention as specified in claims 45, 46, 50, 52, and 53, because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Walker.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 33 - 54 have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7a.m. - 3p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/  
Primary Examiner, Art Unit 3714

/E. M. T./  
Examiner, Art Unit 3714